

Shaneeda Jaffer (SBN 253449)
 sjaffer@beneschlaw.com
 BENESCH FRIEDLANDER COPLAN &
 ARONOFF LLP
 100 Pine Street, Suite 3100
 San Francisco, California
 Telephone: (628) 600-2250
 Facsimile: (628) 221-5828

Gary A. Bornstein (*pro hac vice*)
 gbornstein@cravath.com
 CRAVATH, SWAINE & MOORE LLP
 Two Manhattan West
 375 Ninth Avenue
 New York, New York 10001
 Telephone: (212) 474-1000
 Facsimile: (212) 474-3700

Counsel for Plaintiff Epic Games, Inc.

QUINN EMANUEL URQUHART &
 SULLIVAN, LLP

Victoria F. Maroulis (SBN 202603)
 victoriamaroulis@quinnemanuel.com
 555 Twin Dolphin Drive, 5th Floor
 Redwood Shores, California 94065
 Telephone: (650) 801-5000

*Counsel for Defendants Samsung Electronics
 Co., Ltd. and Samsung Electronics America,
 Inc.*

Jeannie S. Rhee (*pro hac vice*)
 PAUL, WEISS, RIFKIND, WHARTON &
 GARRISON LLP
 2001 K Street, NW Washington, DC 20006-
 1047

Telephone: (202) 223-7300
 Facsimile (202) 223-7420
 jrhee@paulweiss.com

Counsel for Google LLC

[Additional counsel appear on signature page]

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

EPIC GAMES, INC.,

Plaintiff,

vs.

SAMSUNG ELECTRONICS CO., LTD.;
 SAMSUNG ELECTRONICS AMERICA,
 INC.; and GOOGLE LLC,

Defendants.

)
) Case No. 3:24-cv-06843-JD
)
) **JOINT CASE MANAGEMENT**
) **STATEMENT & [PROPOSED] ORDER**
)
)
)
)
)
)
)
)
)
)

The parties to the above-entitled action jointly submit this JOINT CASE
 MANAGEMENT STATEMENT & PROPOSED ORDER pursuant to the Standing Order for All
 Judges of the Northern District of California and Civil Local Rule 16-9.

1. JURISDICTION & SERVICE

The parties agree that this Court has subject-matter jurisdiction over this case pursuant to the Clayton Antitrust Act, 15 U.S.C. § 26, and 28 U.S.C. §§ 1331 and 1337. The Parties further agree that the Court has supplemental and diversity jurisdiction over Epic’s state-law claims pursuant to 28 U.S.C. §§ 1367 and 1332. There are no issues pending regarding personal jurisdiction or venue, and no parties remain to be served.

2. FACTS

EPIC’S STATEMENT: This case is about Google and Samsung’s long-standing business relationship, including their most recent effort to thwart the jury verdict in the *Epic v. Google* case. Google and Samsung are able to achieve their anti-competitive goals because Google has a monopoly in the market for Third-Party Smartphone Operating Systems,¹ which is the market comprising smartphone operating systems (“OSs”) that original equipment manufacturers (“OEMs”) can license for installation on smart mobile devices they manufacture, such as mobile phones and cellular-enabled tablets. Google’s Android operating system (“Android”) is the only commercially viable option that is available for OEMs to license.

Google has used its monopoly in the Third-Party Smartphone Operating Systems to unlawfully maintain monopolies and restrain trade in a related market: the Android App Distribution Market, which is the market for the distribution of mobile applications (“apps”) to users of Android devices. Google has a monopoly in the Android App Distribution Market through the Google Play Store (“Google Play”), which is Google’s app store. As a result of its monopoly power, Google Play is how more than 80% of all Android apps globally (excluding China) and more than 95% in the United States are downloaded and installed.

Google has maintained its illegal monopoly through a web of anticompetitive agreements and technical impediments and frictions. First, Google has entered into agreements

¹ Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Complaint. (Dkt. 1.)

1 with OEMs that ensure Google Play is installed on the home screen of every Android device,
2 most often on an exclusive basis, giving Google Play a significant advantage over other app
3 stores. In addition, Google has designed Android to allow users to download and install apps
4 from Google Play easily and with minimal steps. By contrast, Google has made it extremely
5 difficult for users to download apps from any alternative app store, or to download directly from
6 a developer's website. Specifically, Google has embedded scare screens that make the process
7 complex, confusing and intimidating, in order to deter users from completing the download and
8 installation process for apps downloaded from alternative app stores or the web.

9 To ensure that no competition gets through these barriers, Google has also
10 launched an array of projects to pay off competitors and prevent other stores from getting a
11 foothold in the market. One of its partners in this scheme has been Samsung, the world's largest
12 Android smartphone maker. Given its stature, Samsung is positioned to challenge Google's
13 dominance in app distribution. But instead of fierce competition, Samsung has chosen loyal
14 cooperation. Samsung has formed an exceptionally close relationship with Google, which
15 includes Google paying Samsung billions of dollars. In return, Samsung has touted Google Play
16 and largely maintained its own Galaxy Store as an insignificant alternative to Google Play. This
17 long-standing relationship between Google and Samsung, including concerted action such as
18 agreements not to compete, has had anticompetitive effects in the Android App Distribution
19 Market for years.²

20 In December 2023, a jury found that Google violated Sections 1 and 2 of the
21 Sherman Act and the Cartwright Act, and the Court stated its intent to issue remedies opening up
22 the Android App Distribution Market. In anticipation of this relief, on August 16, 2024, Epic
23

24 ² Google and Samsung fault Epic for not yet having internal documents evidencing Google and
25 Samsung's agreement. But the Complaint sets forth ample evidence that Google and Samsung
26 agreed to put Auto Blocker on by default, including Google and Samsung's prior agreements,
27 their longstanding cooperation, Samsung's failure to compete with the Google Play Store and the
28 timing of Auto Blocker's roll out. The fact that, without the benefit of discovery, Epic does not
have internal documents evidencing an agreement regarding Auto Blocker is therefore irrelevant.

1 launched its app store, called the Epic Games Store, on Android. While remedy proceedings
2 were ongoing, however, Samsung, in coordination with Google, announced a new competition-
3 suppressing update to its devices. The update changed a previously non-default setting, called
4 “Auto Blocker,” to be enabled on Samsung devices as the default setting. This means that the
5 status quo stymies competition: Auto Blocker intercepts and halts all user attempts to download
6 and install Android apps from any source other than Google Play and the Galaxy Store. If a user
7 actually attempts to turn off Auto Blocker—which requires them to navigate through the
8 device’s settings menu (as Samsung admits)—they are told that Auto Blocker is a “security”
9 feature; this scare tactic will lead many users to abandon any attempt to download the app or app
10 store.

11 If Auto Blocker remains the default setting on Samsung phones, it would
12 materially frustrate the remedies this Court has imposed on Google in the *Epic v. Google*
13 litigation and impede any nascent competition in the Android App Distribution Market.
14 Samsung sells more Android smartphones than any other smartphone manufacturer. Purchases
15 on Samsung devices account for more than half of the total revenue Google collects from in-app
16 sales made within Android apps. The effect of Auto Blocker is to substantially foreclose third-
17 party app stores, such as the Epic Games Store, from the relevant market and from reaching a
18 sizable audience on Android.³

19 To prevent this and other concerted action and anticompetitive behaviors between
20 Google and Samsung, Epic promptly filed its Complaint on September 30, 2024. Samsung and
21 Google’s actions also give rise to other causes of action, including claims under the California
22 Unfair Competition Law and common law trade libel and commercial disparagement.

25 ³ Samsung argues that the anticompetitive effects of Auto Blocker are diminished because it is
26 only on by default on new phones. But, as the Complaint alleges, Samsung’s plan is to
27 implement Auto Blocker by default on all phones—the fact that it has not yet done so is of no
28 moment.

1 Epic anticipates that the following factual issues, among others, will be disputed:

2 (a) whether Google and Samsung have engaged in the above-described anticompetitive conduct
3 in the Android App Distribution Market, including acting in concert to maintain Google’s illegal
4 monopoly; and (b) the effects of Google and Samsung’s conduct on competing app distributors,
5 developers, and users.⁴

6 **SAMSUNG’S⁵ STATEMENT:** As Epic’s statement demonstrates, its long-
7 running antitrust dispute is with Google; not Samsung. Google supposedly has monopoly power.
8 Google allegedly imposed anticompetitive agreements for years. Google is the one that lost a
9 recent verdict in a separate suit filed by Epic (which is on appeal). Epic provides no basis for its
10 unsupported claims against Samsung. In fact, Epic does not even mention Samsung until nearly
11 halfway through its recitation of the case. That alone tells much.

12 The broader problem is that this case makes little sense and in fact demonstrates
13 why Samsung is essentially an afterthought to Epic’s campaign against Google. The crux of Epic’s
14 allegations is that Samsung supposedly colluded with Google to pre-emptively neuter this Court’s
15 injunctive remedies in *Epic v. Google* and that Samsung seemingly did so to maintain *Google’s*
16 alleged monopoly power, despite Epic’s concession that Samsung is Google’s biggest rival in the
17 alleged relevant market. For this supposed collusion, Epic alleges Samsung got absolutely nothing
18 out of the deal—no payment, no special relationship, no consideration of any kind. Samsung thus
19 allegedly conspired to harm its own competitive position at a point where it knew this Court was
20 about to issue an injunction that would greatly benefit Samsung, and all for nothing in return. It
21 makes no economic sense.

22
23
24 ⁴ As discussed above, in December 2023, after a 15-day trial, a jury found that Google violated
25 Sections 1 and 2 of the Sherman Act and the Cartwright Act. *See Epic v. Google*, Jury Verdict
26 (Dkt. 606). That verdict establishes many of the issues Epic would need to prove here, and Epic
27 reserves all rights with respect to asserting issue preclusion.

28 ⁵ “Samsung” includes both Defendant Samsung Electronics America, Inc. and Defendant Samsung
Electronics Co., Ltd.

Moreover, the mechanism by which Samsung supposedly colluded with Google to harm its own competitive position is convoluted in the extreme, and immunized under the antitrust laws, in any event. Epic alleges Samsung colluded with Google by introducing a July 2024 update to a security feature on Samsung phones called “Auto Blocker.” Among other things,⁶ that update turned Auto Blocker “on” by default only for *new* Samsung phones. For all other Samsung phones—the *vast* majority currently in circulation—Auto Blocker remains “off” by default and can only be turned on voluntarily by the phone’s user. Epic does not and cannot dispute that Auto Blocker is a Samsung feature, programmed and designed by Samsung for Samsung products, to be used by Samsung consumers, and that the decision to turn it on by default on new Samsung phones was Samsung’s.

Notably, Epic does not allege that Auto Blocker’s mere existence is anticompetitive. If Samsung phone users turn it on by themselves (as they have had the option to do since October 2023), Epic is fine with that. Epic never explains why, if Samsung has colluded with Google to help Google, Samsung’s sole method of collusion only applies to a sliver of Samsung phones. Nor does it explain why Samsung has made turning Auto Blocker “off” so easy. For affected phones, during the phone’s initial setup wizard (i.e., the electronic device setup process that all users must complete before using the device), users are prompted with the option to turn it off from the very start. If a user chooses to keep it on, they can turn it off at any time in the phone’s settings. And if a user is actually affected by Auto Blocker—e.g., by trying to install an app from a source other than Galaxy or Play stores—the pop-up screen they see explicitly explains how the user can turn off the feature using a simple and intuitive process (which involves navigating to a top-level menu in the phone’s Settings and then going to the appropriate submenu).

⁶ The Complaint recognizes that the July 2024 update to Auto Blocker contained other security improvements, e.g., blocking commands from USB cables or software updates by USB cable (both of which can be used surreptitiously to install malware), and blocking malware installation from images or links in messaging apps. *See* Compl. ¶91 n.3.

1 As part of Epic’s public relations tour commenced the day it filed the Complaint,
2 Epic’s CEO, Tim Sweeney, admitted that “he doesn’t yet have proof that Google and Samsung
3 colluded — he’s hoping that comes out in the legal discovery process.” Sean Hollister, “Epic is
4 suing Google — again — and now Samsung, too,” *The Verge* (Sep. 30, 2024), *available at*
5 <https://tinyurl.com/mr3awf5c>. Indeed, Epic has all but admitted the same in its Complaint,
6 conceding that Samsung *rejected* Google’s alleged repeated requests to not compete and “get out
7 of the [app] store business.” Compl. ¶5. As Epic admits, “Google entered into [Revenue Sharing
8 Agreements] with most major OEMs where it paid each OEM a portion of Play Store revenue in
9 exchange for store exclusivity on the OEM’s smartphones.” *Id.* ¶51. The *one* notable exception is
10 Samsung, which Epic concedes “pre-installs [Samsung’s competing] Galaxy Store on virtually all
11 Samsung devices.” *Id.* ¶39.

12 In short, Epic admits Samsung has consistently competed with Google and that
13 Epic has no actual evidence of collusion here—which is critical in a case that hinges entirely on a
14 supposed conspiracy between Samsung and Google. Notwithstanding those concessions, Epic
15 nonetheless alleges Samsung committed an about face for no gain at all at the exact moment this
16 Court was about to issue injunctive relief that would benefit Samsung more than any other current
17 or prospective competitor. This is not only implausible; it is untrue.

18 There are a host of other fatal flaws to Epic’s baseless lawsuit, as will be set forth
19 in Samsung’s forthcoming motion to dismiss.

20 Factual issues, among others, exist regarding: whether Samsung colluded with
21 Google as alleged in the Complaint; Epic’s alleged relevant antitrust markets; and the factual bases
22 for Epic’s trade libel claims.

23 **GOOGLE’S STATEMENT:** Epic’s entire case is predicated upon the
24 unsupported allegation that Google and Samsung conspired to change Samsung’s Auto Blocker
25 feature from default off to default on. As counsel for Epic stated in the parties’ Rule 26(f)
26 conference on December 17, 2024, that is the “core issue” in this case. It is the only illegal
27 agreement alleged in the Complaint, and the only anticompetitive conduct that forms the basis of
28

1 all of Plaintiff’s claims against Google. But it is untrue, and also, unsupported—a fact
2 acknowledged by Epic’s CEO when he stated, on the date Plaintiff filed the Complaint, that Epic
3 “doesn’t yet have proof that Google and Samsung colluded” and that “he’s hoping that comes
4 out in the legal discovery process.”⁷

5 Epic’s dissatisfaction with Samsung’s independent security actions is not a basis
6 for suing Google. Indeed, it appears that Google has been brought into *this* case only to
7 bootstrap Samsung’s conduct in a highly-competitive industry into an alleged antitrust violation
8 against Google. But there is no evidence to support the allegation of an agreement. To the
9 extent Epic’s principal dispute is with Google, the place to litigate those issues is not here, but is
10 currently ongoing in the Ninth Circuit, on appeal from *Epic Games, Inc. v. Google LLC et al.*,
11 Case No. 3:20-cv-05671-JD (N.D. Cal.).

12 As Epic’s Complaint acknowledges, Auto Blocker is a security feature created by
13 Samsung, implemented by Samsung using its own proprietary user interface, and announced and
14 launched by Samsung. As Google’s forthcoming motion to dismiss will explain, Epic’s claims
15 against Google must be dismissed because there are no plausible and factual allegations of
16 coordination or an agreement. Google does not fault Epic for not having internal documents; it
17 faults Epic for not offering any support for its allegations beyond mere speculation and
18 conclusory statements. Google never entered into an agreement with Samsung regarding
19 Samsung’s decision to change Auto Blocker to “default on.” And most certainly, there was no
20 agreement “to circumvent the injunction that the United States District Court for the Northern
21 District of California will likely soon issue in *Epic v. Google*,” Compl. ¶ 101, an allegation that
22 is as untrue and irresponsible as it is conclusory and unsupported.

23 Nor can Epic manufacture a new lawsuit against Google because it is unhappy
24 that other industry players are taking steps to compete on security and build features to protect its
25

26 ⁷ Sean Hollister, *Epic is suing Google – again – and now Samsung, too*, The Verge (Sept. 30,
27 2024), available at <https://tinyurl.com/mr3awf5c>.

customers from security and privacy risks. *See* Google’s Objections to Epic’s Proposed Injunction, *Epic Games, Inc. v. Google LLC et al.*, Case No. 3:20-cv-05671-JD (N.D. Cal.), ECF No. 656 at 41-42 (May 2, 2024).

Thus, the other allegations in Plaintiff’s Complaint, and Plaintiff’s own recitation of its case in this Statement—both having nothing to do with this “core issue” in the case—are merely attempts to bolster Epic’s speculative claims with issues in dispute in a different litigation. Those issues should continue to be litigated where they belong and only where they belong—in the Ninth Circuit.

Google anticipates that the following factual issues, among others, will be disputed: whether there is any evidence of an agreement between Samsung and Google to turn Auto Blocker on by default in order to allegedly circumvent an injunction from *Epic Games, Inc. v. Google LLC et al.*, Case No. 3:20-cv-05671-JD (N.D. Cal.) or to effectuate a group boycott of independent app store developers.

3. LEGAL ISSUES

EPIC’S STATEMENT: At this time, Epic anticipates that the following issues will be disputed:

- Whether Google and Samsung’s conduct as alleged in the Complaint violates Section 1 or 2 of the Sherman Act, 15 U.S.C. §§ 1, 2. (*See* Compl. at Counts 1, 2, and 3 and ¶¶ 132-153.)
- Whether Google and Samsung’s conduct as alleged in the Complaint violates California’s Cartwright Act, Cal. Bus. & Prof. Code § 16700 et seq., and Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, et seq. (*See* Compl. at Counts 4-6 ¶¶ 154-173.)
- Whether Samsung’s conduct as alleged in the Complaint violates California tort law, which prohibits intentional disparagement of the quality of property that results in pecuniary damage. *See, e.g., Hartford Cas. Ins. Co. v. Swift Distribution, Inc.*, 59 Cal. 4th 277, 290, (2014).

SAMSUNG’S STATEMENT: Samsung agrees with the legal issues identified by Epic and Google.

GOOGLE’S STATEMENT: At this time, Google believes the following legal issues will be disputed:

- Whether Google reached any agreement with Samsung to turn Auto Blocker on by default, in violation of Sections 1 or 2 of the Sherman Act, 15 U.S.C. §§ 1, 2;
- Whether Defendant Samsung’s decision to turn its Auto Blocker feature to “default on” has produced or will produce any anticompetitive effects in any relevant antitrust market(s), in violation of Sections 1 or 2 of the Sherman Act, 15 U.S.C. §§ 1, 2.
- Whether Google participated in any unlawful group boycott against independent app store distributors in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1;
- Whether Google’s alleged conduct violates California’s Cartwright Act, Cal. Bus. & Prof. Code § 16700 *et seq.*,
- Whether Google’s alleged conduct violates California’s Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*

4. MOTIONS

There are no pending motions. Samsung and Google intend to move to dismiss this Action. The Parties have agreed to a briefing schedule for the anticipated motion to dismiss, set forth below and in Exhibits A and B.

5. AMENDMENT OF PLEADINGS

At this time, Epic does not anticipate seeking any amendments to its Complaint but reserves the right to do so in response to a dispositive motion or responsive pleading by Samsung and Google.

6. EVIDENCE PRESERVATION

EPIC’S STATEMENT: Epic certifies that it has reviewed the Guidelines Relating to the Discovery of Electronically Stored Information, that it discussed evidence

1 preservation at the Parties' meet and confer on December 17, 2024, and certifies that it has taken
2 reasonable and proportionate steps to preserve evidence relevant to the issues reasonably evident
3 in this action.

4 **SAMSUNG'S STATEMENT:** Samsung certifies that it has reviewed the
5 Guidelines Relating to the Discovery of Electronically Stored Information, that it discussed
6 evidence preservation at the Parties' meet and confer on December 17, 2024, and certifies that it
7 has taken reasonable and proportionate steps to preserve evidence relevant to the issues
8 reasonably evident in this action.

9 **GOOGLE'S STATEMENT:** Google certifies that it has reviewed the
10 Guidelines Relating to the Discovery of Electronically Stored Information, that it discussed
11 evidence preservation at the Parties' meet and confer on December 17, 2024, and certifies that it
12 has taken reasonable and proportionate steps to preserve evidence relevant to the issues
13 reasonably evident in this action.

14 **7. DISCLOSURES**

15 The Parties have agreed to serve initial disclosures on January 13, 2025.

16 **8. DISCOVERY**

17 **A. Discovery Propounded to Date**

18 No discovery has been propounded as part of this litigation to date.

19 **EPIC'S STATEMENT:** Epic's position is that discovery should commence in
20 earnest as soon as initial disclosures are served on January 13, 2025. Given the proof presented
21 in the *Epic v. Google* trial and the jury verdict rendered in that matter, Epic's claims are more
22 than sufficiently credible to warrant proceeding with discovery prior to resolution of the
23 forthcoming motions to dismiss.

24 Samsung's proposal for a stay of discovery pending its forthcoming motion to
25 dismiss would be inappropriate in this case. As this Court has made clear, "except in
26 extraordinary circumstances," it will not stay discovery pending a motion to dismiss. (*See*
27 10.08.2020 Hearing Tr. 11:15-17 (3:20-cv-05671-JD; Dkt. 69).) Those circumstances do not
28

1 exist here. Epic’s Complaint provides more than enough plausible bases to believe that Samsung
2 and Google acted in concert with respect to Auto Blocker and that Samsung has acted violation
3 of California’s Unfair Competition law and California common law. A stay of discovery would
4 only delay this case and prevent Epic from obtaining the relief it is seeking.

5 **SAMSUNG’S STATEMENT**: Mindful that the Court only stays discovery
6 pending dispositive motions to dismiss in extraordinary circumstances, Samsung respectfully
7 submits that such circumstances exist here. As noted above, the crux of this action is that
8 Samsung—at a time when it, the largest competitor to Google in the alleged relevant market, stands
9 to gain most—colluded with Google to roll-out Auto Blocker as a default feature in order to harm
10 Samsung’s competitive position for no gain whatsoever and despite a long history of rejecting
11 Google’s alleged requests to not compete against Google. Moreover, on the day Epic filed the
12 Complaint, Epic’s CEO admitted publicly that “he doesn’t yet have proof that Google and
13 Samsung colluded — he’s hoping that comes out in the legal discovery process.” Sean Hollister,
14 “Epic is suing Google — again — and now Samsung, too,” *The Verge* (Sep. 30, 2024)
15 <https://tinyurl.com/mr3awf5c>. Given the multiple case dispositive problems with Epic’s
16 Complaint, as well as Epic’s concessions that it has no plausible basis to believe Samsung and
17 Google actually conspired here, Samsung respectfully intends to move this Court to stay discovery
18 pending resolution of Samsung’s forthcoming motion to dismiss.

19 **GOOGLE’S STATEMENT**: Google does not intend to move to stay discovery
20 pending resolution of its Motion to Dismiss but believes that the case should remain on the same
21 schedule for all Parties. Accordingly, if the Court grants Samsung’s forthcoming motion to stay
22 discovery, the stay should apply to the whole case. Google further believes that the result of *Epic*
23 *Games, Inc. v. Google LLC et al.*, Case No. 3:20-cv-05671-JD (N.D. Cal.) has little, if any, bearing
24 on whether discovery should commence, where the core issue, as acknowledged by Plaintiff, is
25 simply whether there was an alleged agreement between Samsung and Google to turn Auto
26 Blocker on by default.

B. Scope of Anticipated Discovery

EPIC’S STATEMENT: At this time, Epic expects to seek documentary and testimonial discovery from Samsung and Google regarding, among other things: (1) Samsung and Google’s business relationship; (2) Samsung’s decision to launch Auto Blocker and to make it on by default; (3) communications between Samsung and Google regarding Auto Blocker; (4) Samsung’s and Google’s business practices with respect to other app stores besides the Samsung Galaxy Store and Google Play; (5) Google’s policies, practices, and pricing for Google Play; (6) Samsung’s policies, practices, and pricing for the Samsung Galaxy Store; (7) historical and projected revenues, costs, and profitability for Google Play and the Samsung Galaxy Store; (8) methods of downloading apps or app stores outside of Google Play and the Samsung Galaxy Store, including the additional steps and warnings consumers encounter on Android devices when they download an app directly from a developer or from an alternative store; (9) the relevant markets described in the Complaint and Samsung and Google’s power in those markets, including any barriers to entry; (10) the effects of Google’s and Samsung’s policies and practices on competition, innovation, app distributors, app developers, and consumers; (11) any purported procompetitive justifications for Google’s and Samsung’s conduct; (12) Epic or its products, including Google’s and Samsung’s actual or contemplated response to the introduction of Epic’s app store. Epic notes that the bifurcated discovery proposed by Defendants would unnecessarily prolong the discovery process in this case, making unrealistic the timeline proposed by the Defendants below. Moreover, Epic has brought multiple claims against Samsung that do not require *any* agreement, as both Samsung and Google admit in their statement of the legal issues above. These include claims of unfair practices in violation of California’s Unfair Competition Law as well as trade libel and commercial disparagement in violation of California common law. (See Compl. at Counts 6-7 ¶¶ 167-178.) Therefore, “fact discovery first focusing on . . . whether there is evidence of an agreement between Samsung and Google to turn Auto Blocker on by default” is not appropriate here. Epic further notes that the scope and burden of discovery could be materially diminished through the adoption in this case of findings made in *Epic v. Google*.

1 Epic also intends to seek documentary and testimonial discovery from non-
2 parties.

3 **SAMSUNG’S STATEMENT**: As noted above, Samsung believes it is proper to
4 stay discovery pending its motion to dismiss, given the many problems with the Complaint.
5 Nevertheless, Epic overstates the scope of discovery even if the Court permits the Complaint to
6 survive in full. For example, Samsung and Google’s entire business relationship is not at issue
7 except as it relates to the relevant markets or Auto Blocker, and it is unclear why Samsung’s
8 policies, practices, and pricing for the Samsung Galaxy Store or its historical and projected
9 revenues, costs, and profitability for the Samsung Galaxy Store are proportional to the needs of
10 this case. Moreover, Samsung does not believe discovery prior to 2024 is appropriate considering
11 that under the Complaint, Samsung did not develop or implement Auto Blocker until October
12 2023, and the alleged conspiracy did not begin until July 2024. The only relevant discovery
13 predating 2024 is that Samsung implemented Auto Blocker in 2023 and the supposed “false
14 statements” underlying Epic’s trade disparagement and “unfair practices” UCL claim (which
15 invokes trade disparagement as its predicate act) began at that time. But such discovery is relevant
16 only insofar as it shows widespread dissemination of those statements and that Epic alleges no
17 harm from them. Samsung will, of course, meet and confer with Epic as warranted and when
18 appropriate in relation to these issues.

19 Samsung agrees that the topics identified by Google are properly within the scope
20 of discovery, and Samsung may also seek documentary and testimonial discovery from non-
21 parties.

22 Samsung agrees with Google’s proposal to a bifurcated discovery schedule.

23 **GOOGLE’S STATEMENT**: Google proposes that discovery in this case should
24 proceed in a bifurcated manner, with fact discovery first focusing on the only new allegations in
25 this Complaint: whether there is evidence of an agreement between Samsung and Google to turn
26 Auto Blocker on by default. Without any evidence of an agreement between Samsung and
27 Google as to the change in the default setting of that feature, none of Plaintiff’s claims against
28

1 Google can survive—as an agreement is an essential element of Plaintiff’s Section 1 and Section 2
2 conspiracy claims. It would therefore be inefficient and a waste of the parties’ and judicial
3 resources to engage in full-scale discovery about other aspects of Plaintiff’s antitrust claims,
4 which overlap with *Epic Games, Inc. v. Google LLC et al.*, Case No. 3:20-cv-05671-JD (N.D.
5 Cal.) and the topics of substantial discovery in that case, including by Samsung as a non-party in
6 that proceeding. Indeed, the majority of topics on which Epic intends to seek discovery in this
7 case are near-verbatim repeats of the topics on which Epic sought discovery in the that
8 proceeding. *See* Case No. 3:20-cv-05671-JDA.

9 Google proposes that the parties meet and confer after approximately 6 months of
10 fact discovery that is focused substantially on Auto Blocker regarding (a) what further discovery
11 the parties contend they need to support their claims or defenses in this case; (b) the reproduction
12 of relevant documents from *Epic Games, Inc. v. Google LLC et al.*, Case No. 3:20-cv-05671-JD
13 (N.D. Cal.); (c) the refresh of any productions from *Epic Games, Inc. v. Google LLC et al.*, Case
14 No. 3:20-cv-05671-JD (N.D. Cal.); and (d) appropriate use, if any, of depositions from *Epic*
15 *Games, Inc. v. Google LLC et al.*, Case No. 3:20-cv-05671-JD (N.D. Cal.) in this case. At the
16 same time as the parties confer regarding what, if any, additional discovery is needed, Google
17 proposes that Defendants be permitted to file a partial summary judgment motion on the “core
18 issue” in this case pertaining to the existence of an agreement between Samsung and Google.
19 Defendants’ proposed case schedule, Exhibit B, accounts for this proposal. Epic’s position that
20 Defendants’ proposed case schedule would “prolong the discovery process in this case” has it
21 exactly backwards: by prioritizing what even Epic identified as the “core issue” in this case,
22 Defendants’ proposed schedule is the more efficient manner for discovery to proceed.
23 Moreover, Epic does not dispute that, absent an agreement, it has no claims against Google,
24 which further supports focusing the Parties’ initial discovery on the existence of such an
25 agreement.

26 To the extent that this litigation continues into discovery, Google anticipates
27 seeking documentary and testimonial discovery from Epic regarding, among other things: (1)
28

1 Epic's security policies, practices, and procedures, including with respect to its app store; (2)
 2 Epic's knowledge, awareness, or recognition of security and privacy risks associated with direct
 3 downloads or independent app stores; (3) Epic's internal and external communications regarding
 4 Samsung's Auto Blocker feature; (4) Epic's internal and external communications regarding its
 5 apps being made available in the Samsung Galaxy Store or in other app stores; (5) Epic's
 6 agreements with other OEMs; (6) Epic's knowledge, or lack thereof, of any alleged agreement
 7 between or among Defendant(s) and/or other third parties; (7) the facts known to Epic at the time
 8 that it filed this Complaint, including any outreach made to Defendants and any indication of
 9 possible pre-suit relief that may have been requested during any such outreach; (8) the effects of
 10 the purported agreement alleged in the Complaint. Google may also seek documentary and
 11 testimonial discovery from non-parties.

12 **C. Report on Planned Stipulated E-Discovery Order**

13 The Parties have agreed to use the Stipulated Electronically Stored Information
 14 filed in the *Epic v. Google* related case as a starting point for the Stipulated Electronically Stored
 15 Information (ESI) [Proposed] Order in this action.

16 **EPIC'S STATEMENT:** Epic proposes to file a Stipulated Electronically Stored
 17 Information (ESI) [Proposed] Order, based heavily on the stipulation adopted in *Epic v. Google*,
 18 by January 31, 2025.

19 **SAMSUNG'S STATEMENT:** Samsung will work expeditiously and in good
 20 faith to reach agreement on a Stipulated Electronically Stored Information (ESI) [Proposed]
 21 Order, but does not agree that a specific deadline by which to file that Proposed Order is
 22 necessary.

23 **GOOGLE'S STATEMENT:** Google will work expeditiously and in good faith
 24 to reach agreement on a Stipulated Electronically Stored Information (ESI) [Proposed] Order,
 25 but does not agree that a specific deadline by which to file that Proposed Order is necessary.
 26
 27
 28

D. Proposed Discovery Plan.

EPIC’S STATEMENT: Epic’s proposal regarding the timing of discovery is set forth in Exhibit A. Defendants’ alternative is entirely unrealistic, especially when considering Defendants’ request for bifurcated discovery. Indeed, Defendants’ schedule currently proposes “partial” summary judgment briefing to commence on October 17, 2025—only two weeks after the substantial completion of document production, leaving no meaningful time for fact depositions, and *before* all expert discovery. That is hardly surprising: a realistic schedule that provides for bifurcated discovery and partial summary judgment briefing will be much longer than the schedule proposed by Defendants, likely taking the Parties well into 2027 before trial.

DEFENDANTS’ STATEMENT: Samsung and Google’s proposal regarding the timing of discovery is set forth in Exhibit B. While Defendants contend a substantial completion deadline is unnecessary, should the Court impose one, it should apply to the first phase of fact discovery only (with ample time for the parties to conduct fact depositions). Any additional discovery or substantial completion deadlines should be negotiated as part of the meet and confer that Defendants propose. Moreover, expert discovery is not necessary for the Court’s determination of whether any material fact is in dispute regarding the existence of an agreement.

E. Current Discovery Disputes

To date, the Parties have not identified any discovery disputes.

9. CLASS ACTIONS

There is no proposed class at issue in this matter.

10. RELATED CASES

This Court has one related case in this litigation, *Epic Games, Inc. v. Google LLC*, 20-cv-05671-JD. *See* Related Case Order, Dkt. 19. (Oct. 1, 2024). At this time, the Parties are not aware of other related cases.

11. RELIEF

EPIC’S STATEMENT: Epic seeks all appropriate injunctive and equitable relief, including that the Court: (1) enter judgment in favor of Epic and against Samsung and

Google; (2) issue an injunction prohibiting Google's and Samsung's anti-competitive and unfair conduct and mandating that Samsung take all necessary steps to cease such conduct and to restore competition; (3) award a declaration that Google's and Samsung's anticompetitive conduct is unlawful and unenforceable; (4) award as monetary relief, compensatory, consequential, and punitive, (including treble) damages to Epic, as well as attorneys' fees and costs; (5) award any other equitable relief necessary to prevent and remedy Google's and Samsung's anticompetitive conduct; and (6) grant such other and further relief as the Court deems just and proper. (*See* Compl., Prayer for Relief.)

SAMSUNG'S STATEMENT: Epic is not entitled to any relief.

GOOGLE'S STATEMENT: Epic is not entitled to any relief.

12. SETTLEMENT AND ADR

The Parties have met and conferred regarding ADR and determined that ADR would not assist in resolving the dispute at this time. Epic filed its ADR Certification form on December 19, 2024. (Dkt. 42.) Samsung filed its ADR Certification form on December 23, 2024. (Dkt. 44.) Google filed its ADR Certification form on December 20, 2024. (Dkt. 43.)

EPIC'S STATEMENT: Google claims it cannot cause Samsung to reverse course on its default application of Auto Blocker. While Epic doubts that, it is against this backdrop that Epic made clear to Google that there is no alternative relief Google could provide that would resolve the case.

GOOGLE'S STATEMENT: Google notes that in the parties' Rule 26(f) conference on December 17, 2024, Google asked Epic what relief, if any, it sought against Google to resolve the case. Epic indicated that it did not have any demands to Google to resolve the case, and there is nothing that Google can currently do that would resolve the case.

13. OTHER REFERENCES

The Parties agree this case is not suitable for reference to binding arbitration, a special master or the Judicial Panel on Multidistrict litigation.

14. NARROWING OF ISSUES

EPIC'S STATEMENT: At this stage, Epic does not seek bifurcation of any issues. Epic believes it is too early to identify potential ways to expedite the presentation of evidence at trial, or otherwise narrow the case, except through the adoption in this case of certain findings made in *Epic v. Google*, either by agreement of the Parties and/or through motion practice on preclusion. As discussed above, Epic believes that Samsung and Google's proposal to bifurcate discovery is not appropriate, would be prejudicial to Epic and would cause unnecessary delay in this case.

SAMSUNG'S STATEMENT: Samsung agrees with Google's proposal to bifurcate discovery and agrees that without any evidence of an agreement between Samsung and Google as to the change in the default setting of Auto Blocker, none of Plaintiff's antitrust-based claims, which are the gravamen of the Complaint, can survive. Epic's only remaining claims (assuming they have not been dismissed) would relate to trade libel, which would entail a different scope of discovery as compared to its antitrust-based claims. This warrants bifurcation.

GOOGLE'S STATEMENT: Hours before this filing, Epic claimed that it believes the issues can be narrowed through the adoption in this case of certain findings made in *Epic v. Google*, potentially by way of motion practice on issue preclusion. Google will discuss any proposal from Plaintiff in good faith, but at this time intends to oppose any request for issue preclusion.

As explained in Section 8(b) above, Google proposes that discovery in this case should proceed in a bifurcated manner, with fact discovery first focusing on the new allegations in this Complaint related to Auto Blocker and in particular, whether there is evidence of an agreement between Samsung and Google to turn Auto Blocker on by default. Without any evidence of an agreement between Samsung and Google as to the change in the default setting of that feature, none of Plaintiff's claims against Google can survive.

As reflected in the proposed case schedule in Exhibit B, Google submits that Defendants should be permitted to file a partial summary judgment motion on the core issue of

whether an agreement between Samsung and Google exists. At the same time as the parties brief that motion, Google proposes that, with respect to “non-core” issues for discovery, the parties meet and confer as set forth in Section 8.B, above.

15. EXPEDITED TRIAL PROCEDURE

The Parties agree that this case is not suitable for handling under the Expedited Trial Procedure of General Order No. 64.

16. SCHEDULING

Epic’s scheduling proposal is set forth in Exhibit A.

Samsung and Google’s scheduling proposal is set forth in Exhibit B.

17. TRIAL

Epic has demanded a jury trial. At this time, before any discovery has taken place, the Parties are unable to estimate the length of trial.

18. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS

EPIC’S STATEMENT: Pursuant to Civil Local Rule 3-15, Epic filed its Certification of Interested Entities or Persons (Dkt. No. 2), which discloses that as of the date of filing, it has no parent corporation and that Tencent Holdings Limited indirectly owns more than 10% of Epic’s stock, and that, other than the named parties, Tencent Holdings Limited, and Timothy Sweeney, there is no other person, firm, partnership, corporation, or other entity known by Epic to have either: (i) a financial interest in the subject matter in controversy or in a party to the proceeding; or (ii) any other kind of interest that could be substantially affected by the outcome of the proceeding.

SAMSUNG’S STATEMENT: Pursuant to Civil Local Rule 3-15, Samsung filed its Certification of Interested Entities or Persons (Dkt. No. 39), which discloses as of the date of filing that Defendant Samsung Electronics America, Inc. (“SEA”) is a wholly-owned subsidiary of Defendant Samsung Electronics Co., Ltd. (“SEC”), that no other publicly held corporation owns 10% or more of SEA’s stock, and that SEC has no parent corporation and no publicly held corporation owns 10% or more of SEC’s stock.

1 **GOOGLE’S STATEMENT:** Pursuant to Civil L.R. 3-15, Google filed its
2 Certification of Interested Entities and Persons on November 15, 2024 (ECF No. 33), which
3 disclosures that, as of the date of filing, the following listed persons, associations of persons,
4 firms, partnerships, corporations (including parent corporations) or other entities (i) have a
5 financial interest in the subject matter in controversy or in a party to the proceeding, or (ii) have
6 a non-financial interest in that subject matter or in a party that could be substantially affected by
7 the outcome of this proceeding:

- 8 1. Google LLC
- 9 2. XXVI Holdings Inc., Holding Company of Google LLC
- 10 3. Alphabet Inc., Holding Company of XXVI Holdings Inc.

11 **19. PROFESSIONAL CONDUCT**

12 All attorneys of record have reviewed the Guidelines for Professional Conduct for
13 the Northern District of California.

Dated:

/s/ Yonatan Even

Shaneeda Jaffer (SBN 253449)
 sjaffer@beneschlaw.com
 Lily A. North (CA 260709)
 lnorth@beneschlaw.com
 BENESCH FRIEDLANDER COPLAN &
 ARONOFF LLP
 100 Pine Street, Suite 3100
 San Francisco, California
 Telephone: (628) 600-2250
 Facsimile: (628) 221-5828

Gary A. Bornstein (*pro hac*
vice)

gbornstein@cravath.com
 Yonatan Even (*pro hac vice*)
 yeven@cravath.com

Lauren A. Moskowitz (*pro hac vice*)

lmoskowitz@cravath.com
 Michael J. Zaken (*pro hac vice*)

mzaken@cravath.com
 CRAVATH, SWAINE & MOORE LLP

Two Manhattan West
 375 Ninth Avenue
 New York, New York 10001
 Telephone: (212) 474-1000
 Facsimile: (212) 474-3700

Counsel for Plaintiff Epic Games, Inc.

/s/ Victoria F. Maroulis

QUINN EMANUEL URQUHART &
 SULLIVAN, LLP

Victoria F. Maroulis (SBN 202603)
 victoriamaroulis@quinnemanuel.com
 555 Twin Dolphin Drive, 5th Floor
 Redwood Shores, California 94065
 Telephone: (650) 801-5000

Adam B. Wolfson (SBN 262125)

adamwolfson@quinnemanuel.com

Kevin Y. Teruya (SBN 235916)

kevinteruya@quinnemanuel.com

865 South Figueroa Street, 10th Floor
 Los Angeles, California 90017
 Telephone: (213) 443-3000

Debra D. Bernstein (*pro hac vice forthcoming*)

debrabernstein@quinnemanuel.com
 1200 Abernathy Road NE, Building 600,
 Suite 1500

Atlanta, Georgia 30328

Telephone: (404) 482-3502

Counsel for Samsung Electronics Co., Ltd.
and Samsung Electronics America, Inc.

PAUL, WEISS, RIFKIND, WHARTON &
 GARRISON LLP

/s/ Jeannie S. Rhee

Jeannie S. Rhee (*pro hac vice*)

jrhee@paulweiss.com

Karen L. Dunn (*pro hac vice forthcoming*)

kdunn@paulweiss.com

Jessica E. Phillips (*pro hac vice*)

jphillips@paulweiss.com

Martha L. Goodman (*pro hac vice*)

mgoodman@paulweiss.com

2001 K Street, NW

Washington, DC 20006-1047

Telephone: (202) 223-7300

Facsimile (202) 223-7420

Meredith R. Dearborn (SBN 268312)

535 Mission Street, 24th Floor

San Francisco, California

Telephone: (202) 223-7323

Facsimile (202) 330-5908

mdearborn@paulweiss.com

Counsel for Google LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

E-FILING ATTESTATION

I, Yonatan Even, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each of the signatories identified above has concurred in this filing.

/s/ Yonatan Even

Yonatan Even

CASE MANAGEMENT ORDER

The above JOINT CASE MANAGEMENT STATEMENT & PROPOSED ORDER is approved as the Case Management Order for this case and all parties shall comply with its provisions. [In addition, the Court makes the further orders stated below:]

IT IS SO ORDERED.

Dated:

UNITED STATES DISTRICT/MAGISTRATE JUDGE

Exhibit A: Epic's Proposed Discovery Plan and Schedule

Event	Deadline
Joint Case Management Statement	Thursday January 9, 2025
Serve Rule 26(1)(1) Initial Disclosures and Start of Fact Discovery	Monday January 13, 2025
Initial Case Management Conference	Thursday January 16, 2025
Motion to Dismiss Opening Brief	Tuesday January 21, 2025
File Stipulated [Proposed] Protective Order	Friday January 31, 2025
File Stipulated [Proposed] ESI Order	Friday January 31, 2025
Motion to Dismiss Opposition Brief	Tuesday February 18, 2025
File Stipulated [Proposed] Expert Order	Thursday February 20, 2025
Motion to Dismiss Reply Brief	Tuesday March 11, 2025
(Substantial or Full) Completion of Document/Data Production	Tuesday July 1, 2025
Close of Fact Discovery	Monday November 3, 2025
Opening Expert Reports	Thursday January 8, 2026
Rebuttal Expert Reports	Friday, February 20, 2026
Expert Discovery Cutoff	Friday March 13, 2026
Dispositive Motions	Monday March 23, 2026
Pretrial Meet and Confer	Tuesday April 21, 2026 (30 days before pretrial filings are due)
Motions <i>in limine</i> and trial Exhibits Exchanged	Tuesday May 5, 2026 (at least 14 days before pretrial filings are due)
Oppositions to Motions <i>in limine</i>	Friday May 15, 2026 (at least 4 days before pretrial filings are due)
Joint Pretrial Conference Statement, Proposed Jury Instructions and Verdict Forms, Joint Witness and Exhibit Lists, Motions <i>in limine</i> and Trial Briefs	Thursday May 21, 2026 (per Judge Donato's rules, 14 days before final pretrial conference)
Pretrial Conference and Hearing on Dispositive Motions	Thursday May 4, 2026 at 1:30 PM (per Judge Donato's rules, a Thursday 19 days before the start of trial)
Proposed Order on Trial Stipulations, and Witness and Exhibit Lists	Thursday, June 11, 2026
Trial Start	Monday June 22, 2026

EXHIBIT B: DEFENDANTS' PROPOSED CASE SCHEDULE

Event	Defendants' Proposed Deadline
Joint Case Management Statement	Thursday January 9, 2025
Serve Rule 26(1)(1) Initial Disclosures	Monday January 13, 2025
Initial Case Management Conference	Thursday January 16, 2025
Motion to Dismiss Opening Brief	Tuesday January 21, 2025
Motion to Dismiss Opposition Brief	Tuesday February 18, 2025
Motion to Dismiss Reply Brief	Tuesday March 11, 2025
Motion to Dismiss Hearing	Thursday, April 3, 2025
Substantial Completion of Document/Data Production (First Phase) ⁸	N/A, or Tuesday, July 1, 2025
Opening Brief on Partial Motion for Summary Judgment on Existence of Agreement	Friday, October 17, 2025
Opposition Brief on Partial Motion for Summary Judgment on Existence of Agreement	Friday, November 14, 2025
Reply Brief on Partial Motion for Summary Judgment on Existence of Agreement	Friday, December 5, 2025
Hearing on Partial Motion for Summary Judgment	Wednesday, December 17, 2025
Expert Disclosures (identity and topics for Opening Experts)	Friday, December 19, 2025
Close of Fact Discovery	Friday, January 30, 2026
Opening Expert Report	Wednesday, February 4, 2026
Responsive Expert Reports	Friday, March 13, 2026
Close of Expert Discovery	Tuesday, March 31, 2026
Dispositive Motion and Daubert Opening Briefs	Friday, April 17, 2026
Dispositive Motion and Daubert Opposition Briefs	Friday, May 8, 2026
Pretrial Meet and Confer	Wednesday, May 20, 2026 (30 days before pretrial filings due)
Dispositive Motion and Daubert Reply Briefs	Friday, May 22, 2026
Dispositive Motion Hearing (and Expert Hot Tub, if the Court requests)	Thursday, June 4, 2026
Serve Motions <i>in limine</i> and Trial Exhibits	Wednesday, June 10, 2026 (at least 14 days before pretrial filings due)
Oppositions to Motions <i>in limine</i>	Monday, June 22, 2026
Pretrial Filings	Friday, June 24, 2026
Final Pretrial Conference	Wednesday, July 8, 2026
Proposed Order on Trial Stipulations and Witness & Exhibit Lists	Thursday, July 16, 2026

⁸ Defendants do not agree that a Substantial Completion discovery cut-off should be included in a Scheduling Order at this juncture, but if the Court is inclined to include a date, two dates are necessary: one for the first phase of discovery and another for the second phase, the latter of which need not be set until after the parties' meet and confer on the scope of such phase.

Trial Start

Monday, July 27, 2026

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28